THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.26299 of 1997

Dated 01-03-2007

Between:
A.P.Paper Mills Limited, rep. By its Senior Officer (law), Secunderabad.

..... PETITIONER

AND

N.D.T.Prabhakar Rao, Seshasai Metta, Rajahmundry & others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.26299 of 1997

O R D E R:

Seeking a direction to quash the order of the third respondent in C.M.A.No.69/1994 dated 24-06-1997 confirming the order of the second respondent in P.W.Case No.1/94, dated 25-08-1994, the present writ petition is filed.

The first respondent was hitherto a workman engaged in the services of the petitioner-Company. He retired from service on 06-07-1993. Subsequent to his retirement, a settlement was entered into by the petitioner with its union, under Section 12(3) of the Industrial Disputes Act, on

24-09-1993, extending certain benefits to the members of the Union retrospectively from 01-07-1992 onwards. The settlement, however, specifically provided that the benefits should be extended only to such of those employees who are on the rolls of the petitioner-Company as on the date of the settlement i.e. 24-09-1993. On the ground that certain benefits, which he was entitled to under the settlement, were not paid to him, the first respondent approached the second respondent and the second respondent, without examining as to whether the stipulated conditions of the settlement had been complied with, granted the relief sought for. Aggrieved thereby, the petitioner-Company preferred an appeal in C.M.A.No.69/94 before the third respondent raising an additional plea that since the first respondent was drawing a monthly salary in excess of Rs.1,600/-, the provisions of the Payment of Wages Act were not applicable. The third respondent, however, rejected this on the ground that it was not raised before the primary authority (second respondent).

Sri Vedula Srinivas, learned counsel for the petitioner-

Company, would make submissions on merits to contend that both the second and third respondents had acted in excess of jurisdiction in directing the petitioner-Company to pay the amount claimed by the first respondent-workman. Learned counsel would submit that, in the absence of any right being conferred on the first respondent under the settlement, the second respondent had acted without authority of law in directing the petitioner-Company to pay the amount merely on the ground that some of the benefits had been extended to him out of grace.

According to the learned counsel, a plea, whether the provisions of the Payment of Wages Act would apply to the first respondent who was admittedly drawing wages in excess of Rs.1,600/- p.m., was a jurisdictional plea and related to the applicability of the provisions of the Payment of Wages Act, failure to take such a plea before the second respondent did not disentitle the petitioner-Company from raising such a contention before the third respondent.

While the submissions of Sri Vedula Srinias, learned counsel for the petitioner, cannot be said to be without merit, it must, however, not be lost sight of that the amount, which the first respondent, who had retired from service, was directed to be paid was Rs.1,395/-. Under Section 17 of the Payment of Wages Act, this amount was required to be deposited before the appellate authority.

The jurisdiction exercised by this Court, under Article 226 of the Constitution of India, is discretionary and is exercised only in larger public interest and not as a matter of course. Payment of a sum of Rs.1,395/- to a retired employee does not necessitate interference in proceedings under Article 226 of the Constitution of India merely on the making out a legal point. I see no reason, in view of the fact that the entire dispute relates to payment of a paltry sum of Rs.1,395/-, to exercise discretion and interfere with the order

of the third respondent in C.M.A.No.69/1994 dated 24-06-1997.

The Writ Petition fails and is accordingly dismissed. No order as to costs.

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01-03-2007

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